## FINDINGS OF FACT AND CONCLUSIONS OF LAW

. . . . . . . . . . .

This matter comes before the Deputy Joning Commissioner as a Petition for Variance filed by the owners of the subject property, Roger and Beatrice K. Wadkins. The Petitioners seek relief from Section 1802.3C1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 55.5 teet in lieu of the minimum required 70 feet for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Potition were Roger and Beatrice Wadkins, property owners, and Owight Little, Professional Engineer with W. Divali and Associates, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 1630 Cape May Road, consists of 3.3346 acres, more or less, zoned D.R. 3.5 and was previously improved with a single family dwelling and detached garage which were recently razed due to their poor condition. The Petitioners are desirous of reconstructing a new dwelling on the lot; however, due to the width of the lot which does not meet current lot width requirements, the requested variance is necessary. Testimony revealed that this property is part of an older subdivision which was developed with smaller width lots many years ago.

An area variance may be granted where strict application of the for and regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this  $13^{1/4}$  day of December, 1993, that the Petition for Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a lot width of 55.5 feet in lieu of the minimum required 70 feet for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

> > Deputy Zoning Commissioner for Baltimore County

TMK:bis

Petition for Variance
to the Zoning Commission

for the property located at

1630 Cape May Road

which is presently zoned DR-3-5 This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 (B.C.Z.R.) to allow a

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty). To be discussed at hearing (practical difficulty).

lot width of 55.5' in lieu of the required 70'.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, poeting, etc., upon filling of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

| Eng/Bent                     | Whe do selemity declare and affirm, under the principles of perjuty, that the are the legal exmerts of the preperty which is the subject of this Petition. Legal Owner(s): |
|------------------------------|--|
| W. Duvall & Associates, Inc. | Roger Wadkins  |
| Jack of Kronn                | Luga Walkins   |
| 530 F. Joppa Road            | Beatrice K. Wadkins  |
| Towson, Maryland 21286       | Exatrice of Wadkins  |
| Allemay for Politicaer:      | 11501 Sherwood Road (410) 592-6259   |
| (Type or Print Name)         | Address Phone No   |
|                              | Upper Falls, Maryland 21156  |
|                              | Name. Address and phone number of legal owner, contract purchaser or represents to be contacted.   |
| Province No.                 | Name   |
| χ <del>&gt;</del>            | todo Addreso Phone lis.  |
|                              | ESTIMATED LEWISTH OF HEATING  WASHINGTON OF HEATING  |
|                              | AL OTHER DATE 11/1/93  |

#190

W. DUVALL & ASSOCIATES, INC.

12/3/93 12/3/93

Engineers • Surveyors • Land Planners

ZONING DESCRIPTION 1630 CAPE MAY ROAD 15TH ELECTION DISTRICT OF BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point being South 60 degrees West 330 feet, more or less, from the centerline intersection of Cape May Road and Wrights Lane; thence running for the following four courses and distances, viz:

- 1) Binding on Cape May Road South 60 degrees 51 minutes West 55 feet 6
- inches; thence 2) North 27 degrees 45 minutes East 294 feet; thence
- 3) North 60 degrees 51 minutes East 55 feet 6 inches; thence
- 4) South 27 degrees 45 minutes 294 feet to the point of beginning. CONTAINING 16,317 square feet or 0.3746 acres of land, more or less.

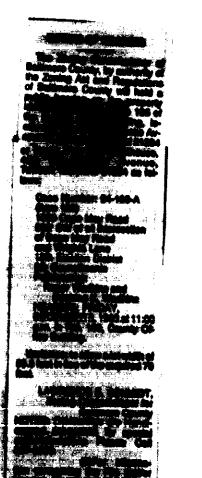


#190

530 East Joppa Road/Tewson, Maryland 21286/(410) 583-9571

CERTIFICATE OF POSTIN ZONING DEPARTMENT OF BALTIMORE COUNTY Towns, Maryland

| Posted for: Variance              | Date of Posting 11/13/93  |
|-----------------------------------|---------------------------|
| About & Brahin                    | Wodkini                   |
| ocation of property: 1530 Cope M  | ley Rily men Ringht, Love |
|                                   | ********                  |
| ocation of Signe Freing Frankling | YOU FOR FAILY being FOUND |
| ocation of Signe: Freeze Yandura  | 4,00 for by being round   |



CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on 11118.1993.

THE JEFFERSONIAN.

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

December 13, 1994

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887 4386

Mr. & Mrs. Roger Wadkins 11501 Sherwood Road Upper Falls, Maryland 21156

RE: PETITION FOR VARIANCE NW/S Cape May Road, 330' SW of its intersection w/Wrights Lane (1630 Cape May Road) 15th Election District - 5th Councilmanic District Roger Wadkins, et ux - Petitioners Case No. 94-196-A

Dear Mr. & Mrs. Wadkins:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is infavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

> Very truly yours, TIMOTHY M. KOTPOGO Deputy Zoning Tommissioner

TMK:b)s

for Baltimore County

cc: Mr. Dwight Little W. Duvall & Associates, Inc. 530 E. Joppa Road, Towson, Md. 21286 People's Counsel

Zoning Administration & Development Management 11 Ansl Chew penke Avenue.

WALKINS - 14:30 Cape Mary Rd.

TAKEN BY JRF

VARIANCE ---- \$ 50,00 # 080 SIGN ... # 35.00

\$85.00

111 West Chesapeake Avenue Lowson, MD 21204

(410) 887-3353

## ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Coming Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

## PAYMENT WILL BE MADE AS FOLLOWS:

1) Posting fees will be accessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEFS WILL STAY ISSUANCE OF ZONING ORDER.

For newspaper advertising:

Item No.: 130

Potitioner: Reserve & Bastiste In Monary

Treatment was a series with the the series PLEASE FORWARD ADVERTISING BILL TO:

NAME: NING - DECEMBER ADDRESS: MARK FF. A FILL KILL 70, 0 005

PHONE NUMBER: 100 TOTAL 100 TOTAL

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY November 18, 1993 Issue - Jeffersonian

Please foward billing to:

**Mark Kromm** W. Duvall & Associates, Inc. 530 E. Joppa Road Towson, Maryland 21286 410-583-9571

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

1630 Cape May Road 330' SW of c/l intersection of Cape May Road and Wrights Lane 15th Election District - 5th Councilmanic Petitioners: Roger Wadkins and Beatrice K. Wadkins

Variance to allow a lot width of 55.5 feet in lieu of the required 70 feet.

Printed with Soybean Ink on Recycled Paper

PLEASE PRINT CLEARLY

CASE NUMBER: 94-196-A (Item 190)

HEARING: FRIDAY, DECEMBER 3, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

LAMRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR IMPORMATION CONCERING THE FILE AND/OR MEARING, PLEASE CALL 887-3391.

Maryland Department of Transportation State Highway Administration

O. James Lighthizer Secretary Hal Kassoff Administrator

11-1297

Ms. Charlotte Minton Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue

Re: Baltimore County Item No.: \$ 196 (577)

Towson, Maryland 21204

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

DEUTO AL ICHMOTEY, ACTING CHIEF **Engineering Access Permits** 

My telephone number is \_\_\_\_\_ Maryland Relay Service for Impaired Hearing or Speech 1-800-735-2258 Statewide Toll Free Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

**Baltimore County Government** Department of Permits and Licenses



NOVEMBER 18, 1993

(410) 887-3610

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

111 West Chesapeake Avenue

Towson, MD 21204

MEETING OF NOVEMBER 15, 1993

Property Owner: Roger Wadkins and Beatrice K. Wadkins Location: #1630 Cape May Road Item No.: 190 (JRF) Property Owner: Catherine O. Deen & Holly Lee Deen Location: #11823 Manor Road

Item No.: 193 (JCM) Charles Michael Thomas & Catherine A. Thomas Property Owner: Location: **#9** Graveswood Road Item No.:

\*194 (WCR)

Property Owner: Michael J. Biller & Pamela M. Biller Location: #2311 Shaded Brook Drive Item No.: \* 195 (JRF)

Property Owner: Edward C. Byrnes & Lisa S. Byrnes #1710 Kurtz Avenue Item No.: \* 196 (JJS)

Property Owner: Sylvester W. Applebaum and Dorothy J. Applebaum #401 Oak Forest Avenue Location: Item No.: \* 197 (JJS)

Property Owner: Carolyn H. Robinson & Timothy W. Robinson Location: #2212 Dalewood Road Item No.: \*198 (RT)

Property Owner: George H. Woodward & Doris C. Woodward #19504 Resh Mill Road Location: Item No.: \*199 (JCM/JRF)

Gentlemen:

Printed with Baybean into an Resysted Paper

**Baltimore County Government** Office of Zoning Administration and Development Management



111 West Chesapeake Avenue Towson, MD 21204

NOVEMBER 10, 1993

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, 01d Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-196-A (Item 190)

1630 Cape May Road 330' SW of c/l intersection of Cape May Road and Wrights Lane 15th Election District - 5th Councilmanic Petitioners: Roger Wadkins and Beatrice K. Wadkins HEARING: FRIDAY, DECEMBER 3, 1993 at 11:00 a.m. in Rm. 106, County Office Building.

Variance to allow a lot width of 55.5 feet in lieu of the required 70 feet.

cc: Roger and Beatrice Wadkins W. Duvall & Associates, Inc.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

PETITIONER(S) SIGN-IN SHEET

| NAME<br>Night Little | ADDRESS  W. Duvall + Assoc, Inc. 530 E. Joppa Rd., Touson 21286  11501 Shorwood Rd.  Appel Falls MD, 21156 |
|----------------------|--|
|                      |  |
|                      |  |
|                      |  |
|                      |  |
|                      |  |
|                      |  |

Baltimore County Government Office of Zoning Administration and Development Management

(410) 887-3353

November 23, 1993

Mr. and Mrs. Roger Wadkins 11501 Sherwood Road Upper Falls, Maryland 21156

111 West Chesapeake Avenue

Towson MD 21201

RE: Case No. 94-196-A, Item No. 199 Petitioner: Roger Wadkins, et al. Petition for Variance

Dear Mr. and Mrs. Wadkins:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, ..e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a pearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on November 1, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process

 The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

##. P BY DATE BACK RIVER NECK S. E DATE OF 1-I **PHOTOGRAPHY** DEC 1954 thy Compiled By Photogrammetric Methods AERIAL SURVEY CORP LANSING MICH.

